

# The Gazette of India

सत्यमेव जयते

## EXTRAORDINARY

### PART II—Section 3

PUBLISHED BY AUTHORITY

---

No. 66] NEW DELHI, THURSDAY, MARCH 8, 1956

---

#### MINISTRY OF LABOUR

#### NOTIFICATION

*New Delhi, the 6th March 1956*

**S.R.O. 610.**—The following draft of a Scheme for the Port of Madras, which the Central Government proposes to make in exercise of the powers conferred by sub-section (1) of Section 4 of the Dock Workers (Regulation of Employment) Act, 1948, (IX of 1948) is published as required by the said sub-section for the information of all persons likely to be affected thereby and notice is hereby given that the draft will be taken into consideration on or after the 10th April, 1956.

2. Any objection or suggestion which may be received from any person with respect to the said draft before the date specified above will be considered by the Central Government.

#### THE SCHEME

#### THE MADRAS DOCK WORKERS (REGULATION OF EMPLOYMENT) SCHEME, 1956

**1. Name of the Scheme.**—The Scheme may be called the Madras Dock Workers (Regulation of Employment) Scheme, 1956 (hereinafter referred to as “the Scheme”).

**2. Objects and application.**—(1) The objects of the Scheme are to ensure greater regularity of employment for dock workers and to secure that an adequate number of dock workers is available for the efficient performance of dock work.

(2) The Scheme relates to the Port of Madras and applies to the classes or descriptions of dock work and dock workers set out in Schedule I:

Provided that the Scheme shall not apply to any dock worker unless he is employed or registered for employment as a dock worker.

(3) The Scheme shall apply to registered dock workers and registered employers.

**3. Interpretations.**—In this Scheme, unless there is anything repugnant in the subject or context—

(a) “the Act” means the Dock Workers (Regulation of Employment) Act, 1948 (IX of 1948);

(b) “Administrative Body” means the Administrative Body appointed under clause 5;

(c) “Board” means the Madras Dock Labour Board constituted under clause 4;

- (d) "Chairman" means the Chairman of the Dock Labour Board;
- (e) "Executive Officer" means the Executive officer appointed by the Dock Labour Board under clause 6;
- (f) "daily worker" means a registered dock worker who is not a monthly worker;
- (g) "dock employer" means the person by whom a dock worker is employed or is to be employed and includes a group of dock employers;
- (h) "dock work" means operations at places or premises to which the Scheme relates, ordinarily performed by dock workers of the classes or descriptions to which the Scheme applies;
- (i) "employer's register" means the register of dock employers maintained under the Scheme;
- (j) "Labour Officer" means the Labour Officer appointed by the Administrative Body under clause 12;
- (k) "monthly worker" means a registered dock worker who is engaged by a registered employer or a group of such employers on monthly wage under a contract which requires for its termination at least on month's notice on either side;
- (l) "Personnel Officer" means the Personnel Officer appointed by the Board under clause 6;
- (m) "register or record" means the register or record of dock workers maintained under the Scheme;
- (n) "registered dock worker" means a dock worker whose name is for the time being entered in the register or record;
- (o) "registered employer" means a dock employer whose name is for the time being entered in the employer's register;
- (p) "reserve pool" means a pool of registered dock workers who are available for work, and who are not for the time being in the employment of a registered employer as monthly workers.
- (q) "vessel" means an ocean going vessel or ship whose gross registered tonnage is not less than 350 tons;
- (r) "week" means the period commencing from mid-night of Saturday and ending on the mid-night of the next succeeding Saturday.

**4. Madras Dock Labour Board.—Constitution of.**—(1) The Central Government shall, by notification in the Official Gazette, constitute a Board to be called the "Madras Dock Labour Board" which shall, subject to the provisions hereinafter contained, be responsible for the administration of the Scheme.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The Board shall consist of not less than 12 members to be appointed by the Central Government and shall include an equal number of members representing—

- (i) the Central Government,
- (ii) the dock workers, and
- (iii) the employers of dock workers and shipping companies.

(4) The Chairman of the Board shall be nominated by the Central Government from among the members representing the Government and the Vice-Chairman of the Board shall be elected by the members of the Board from among themselves.

(5) The persons representing respectively the dock workers and the employers shall be appointed after consulting such Associations of persons as appear to the Central Government to be representative of such workers and such employers.

(6) There shall be paid to the non-official members of the Board such salaries, fees and allowances as may, subject to the approval of the Central Government be determined by the Board, from time to time.

(7) (a) A member of the Board shall hold office for a period of three years from the date of the notification appointing him as a member and shall be eligible for reappointment;

Provided that an outgoing member shall continue in office until the appointment of his successor is notified in the Official Gazette.

(b) A member appointed to fill a casual vacancy shall hold office for the un-expired portion of the term of the person in whose place he is appointed.

(c) A member other than the Chairman may resign his office by a letter under his hand addressed to the Chairman.

(d) The Chairman may resign his office by letter under his hand addressed to the Central Government.

(e) If a member proposes to proceed out of India, he shall, before doing so intimate to the Chairman, the proposed date of his departure from and of his return to, India and, if he intends to be absent from India for a period exceeding six months, he shall tender his resignation.

(f) A member shall be deemed to have vacated his office:—

(i) if he proceeds out of India without complying with the provisions of the sub-clause (e); or

(ii) if he becomes insolvent; or

(iii) if he is convicted of an offence which, in the opinion of the Central Government involves moral turpitude; or

(iv) if he is absent from three consecutive meetings of the Board without leave of absence from the Chairman; or

(v) if, in the opinion of the Central Government, a member who was appointed to represent dock workers or employers of dock workers and shipping companies ceases to be representative of dock workers or their employers or the shipping companies, as the case may be, or

(vi) if, in the opinion of the Central Government it is for any other reason not desirable that he should continue to be a member;

Every vacancy under this clause shall be notified in the Official Gazette.

(g) If, on a report from the Chairman and after such enquiry as it may deem necessary, the Central Government is of opinion that a body or association which is represented on the Board has acted or is acting in a manner prejudicial to the working of the Scheme or to the attainment of its objective, it may by order suspend the representation of that body or association until such time or for such period as may be specified in such order.

(8) No act or proceeding of the Board shall be questioned merely on the ground of the existence of any vacancy in, or defect in the constitution of the Board.

(9) The quorum for and the procedure at meetings of the Board shall be such as the Board may from time to time determine.

(10) If any question arises for the decision of the Board, it shall be decided by vote of the majority of the members present and voting, and in case of equality of votes, the Chairman shall have a second or a casting vote.

(11) The Chairman may for the purpose of assisting the Board in its deliberations co-opt any officer of the Central or State Government as member of the Board. Such a co-opted member shall not, however, have any right to vote.

**5. Administrative Body.**—(1) The Central Government, may, by notification in the Official Gazette, appoint the Madras Stevedores' Association or any other authority to be the Administrative Body for the purpose of carrying on the day-to-day administration of the Scheme.

(2) The Administrative Body shall subject to the supervision and control of the Board and the Chairman and subject to the provisions of clause 45 carry on the day-to-day administration of the Scheme.

(3) The Central Government may, for sufficient cause remove any Administrative Body appointed under sub-clause (1):

Provided that the Administrative Body shall not be removed unless it has been given a reasonable opportunity of being heard.

**6. Executive Officer and Personnel Officer.**—The Board may appoint an Executive Officer, a Personnel Officer and such other officers and servants, and pay them such salaries and allowances and prescribe such terms and conditions of service as it deems fit:

Provided that no post the maximum salary of which exclusive of allowances is not less than rupees five hundred per mensem shall be created, and no appointment to such post shall be made, by the Board except with the previous approval of the Central Government:

Provided further that the sanction of the Central Government shall not be necessary to any appointment in a leave vacancy of a duration of not more than one month.

**7. Functions of the Board.**—(1) The Board may take such measures as it may consider desirable for furthering the objectives of the Scheme set out in clause 2, including measures for:

- (a) ensuring the adequate supply and the full and proper utilisation of the dock labour for the purpose of facilitating the rapid and economic turnaround of vessels and the speedy transit of goods through the Port;
- (b) regulating the recruitment and entry into and the discharge from the Scheme of dock workers and the allocation of registered dock workers to registered employers;
- (c) determining and keeping under review, in consultation with the Administrative Body, the number of registered employers and registered dock workers from time to time on the registers or records and the increase or reduction to be made in the numbers in any such register or record;
- (d) keeping, adjusting and maintaining the employer's registers, entering or re-entering therein the name of any dock employer and, where circumstances so require, removing from the register the name of any registered employer, either at his own request or in accordance with the provisions of the Scheme;
- (e) keeping, adjusting and maintaining from time to time such registers or records, as may be necessary, of dock workers, including any registers or records of dock workers who are temporarily not available for dock work and whose absence has been approved by the Administrative Body and, where circumstances so require, removing from any register or record the name of any registered dock worker either at his own request or in accordance with the provisions of the Scheme.
- (f) the grouping or regrouping of all registered dock workers into such groups as may be determined by the Board after consultation with the Administrative Body and thereafter reviewing the grouping of any registered dock worker on the application of the Administrative Body or of the registered dock worker;
- (g) making provision for the training and welfare of registered dock workers including medical services in so far as such provision does not exist apart from the Scheme;
- (h) leaving and recovering from registered employers, contributions in respect of the expenses of the Scheme;
- (i) making provision for health and safety measures in places where dock workers are employed in so far as such provision does not exist apart from the Scheme;
- (j) maintaining and administering the Dock Workers Welfare Fund and recovering from all registered employers contribution towards the Fund in accordance with the rules of the Fund.
- (k) maintaining and administering a Provident Fund and a Gratuity Fund for registered dock workers in the Reserve Pool;
- (l) borrowing or raising money and issuing debentures or other securities and, for the purpose of securing and debt or obligation, mortgaging or charging all or any part of the property of the Board.

(2) The income and property of the Board from whatever source derived shall be applied solely towards the objects of the Scheme including health, safety, training and welfare measures for dock workers and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus, or otherwise by way of benefit to the members of the Board, provided that nothing herein shall prevent the payment of reasonable and proper remuneration and expenses to any officer or servant of the Board or to any member of the Board in return for any services actually rendered to the Board, nor prevent the payment of interest at a reasonable rate on money lent or reasonable and proper rent for premises demised or let, by any member to the Board.

(3) The Board shall cause proper accounts to be kept of the cost of operating the Scheme and of all receipts and expenses under the Scheme.

(4) The Board shall submit to the Central Government an annual report on the working of the Scheme, an audited balance sheet and copies of proceedings of the meetings of the Board.

**8. Responsibilities and duties of the Board in meeting.**—The Board in meeting shall be responsible for dealing with all matters of policy and in particular may—

- (a) fix the number of workers to be registered under various categories;
- (b) increase or decrease the number of workers in any category on the register from time to time as may be necessary after a periodical review of the registers and anticipated requirements;
- (c) sanction the temporary registration of a specified number of workers in any category for a specified period;
- (d) consider registration of new employers on the recommendation of the Chairman;
- (e) prescribe forms, records, registers, statements and the like required to be maintained under the Scheme;
- (f) determine the wages, allowances and other conditions of service, and refix the guaranteed minimum wages in a month after annual review;
- (g) fix the rate of levy for daily as well as monthly workers as a percentage of the gross wages paid by registered employers;
- (h) fix the rate of contribution to be made by registered employers to the Dock Workers Welfare Fund;
  - (i) appoint, abolish or reconstitute sub-Committees under clause 36;
  - (j) sanction the Annual Budget;
- (k) appoint the Executive Officer and the Personnel Officer.
- (l) sanction the creation of posts the maximum salary of which exclusive of allowances is not less than Rs. 300 per mensem and make appointments to such posts;
- (m) make recommendations to the Central Government about changes in Schedule 1;
- (n) make recommendations to the Central Government about any modifications in the Scheme;
- (o) endeavour to settle disputes about which a request for adjudication has been made to the Central Government by the parties concerned and report to the Government the results of such endeavours;
- (p) discuss statistics of output of labour and turn-round of ships and record its observations and directions, and
- (q) sanction the opening of accounts in such scheduled Banks as it may direct and the operation of such accounts by such persons as the Board may from time to time direct.

**9. Responsibilities and duties of Chairman.**—(1) The Chairman shall have full administrative and executive powers to deal with all matters relating to the day-to-day administration of the Scheme and in particular:

- (a) to ensure that the decisions of the Board in regard to the adjustment of the workers' registers are carried out expeditiously;
- (b) to ensure that the sanctions for temporary registration of workers are carried out without delay;
- (c) (i) to supervise and control the working of the Administrative Body;

- (ii) to take suitable steps if any irregularities are detected by him or brought to his notice;
- (d) to ensure that proper and adequate supervision is provided by the registered employers over the workers employed on their ships;
- (e) to ensure that the provisions of the Scheme in regard to transfer and promotion of workers are carried out;
- (f) to constitute Medical Board when required;
- (g) to ensure that conditions, laid down in the Scheme, for the registration of employers are complied with by them;
- (h) to ensure that all forms, registers, returns and documents, prescribed under the Scheme, are properly maintained;
- (i) to ensure that suitable statistics in regard to the output of labour and the turn-round of ships are compiled and placed before the Board every month with appropriate remarks and explanations;
- (j) to sanction the creation of posts the maximum salary of which exclusive of allowances is below Rs. 300 per month and to make appointments to such posts;
- (k) to take disciplinary action against workers and employers in accordance with the provisions of the Scheme;
- (l) to allow exceptions to the maximum limit of overtime work normally permitted under the Scheme and to report all such cases to the Board;
- (m) to allow relaxation in the maximum number of shifts per worker per week or per month, and to report such cases to the Board;
- (n) to declare that there has been a 'go-slow' and to take action as authorised under the Scheme.
- (o) to declare a 'state of emergency' and to take action as authorised under the Scheme;
- (p) to make a report, when necessary, to the Central Government under clause 4(7)(g);
- (q) to sanction the transfer of a monthly worker to the Reserve Pool at the request of the employer or the worker, as provided for in the Scheme;
- (r) to deal with appeals under clauses 48 and 49; and
- (s) to discharge all other duties and responsibilities specially vested in the Chairman under the Scheme

(2) The Chairman may delegate in writing to the Executive Officer any of the functions under sub-clause (1) above excepting those mentioned in item (j), (l), (m), (n) (o), (p), (r) and (s). Such delegation, however, shall not divest the Chairman of his powers.

**10. Responsibilities and duties of the Executive Officer.**—The Executive Officer shall be a whole time Officer of the Board and shall assist the Chairman in the discharge of his functions and in particular shall—

- (a) discharge all functions relating to disciplinary action against registered employers and dock workers to the extent permitted under clause 45,
- (b) exercise such other functions as are delegated to him in writing by the Chairman.

**11. Functions of the Administrative Body.**—Without prejudice to the powers and functions of the Board, the Chairman and the Executive Officer, the Administrative Body shall be responsible for the administration of the Scheme and shall in particular be responsible for—

- (a) keeping, adjusting and maintaining the employers register, entering or re-entering therein the name of any dock employer and, where circumstances so require removing from the register the name of any registered employer, either at his own request or in accordance with the provisions of the Scheme;
- (b) keeping, adjusting and maintaining from time to time such registers or records as may be necessary, of dock workers, including any registers or records of dock workers who are temporarily not available for dock work and whose absence has been approved by the Administrative Body and where circumstances so require, removing

from any register or record the name of any registered dock worker either at his own request or in accordance with his own request or in accordance with the provisions of the Scheme;

- (c) the employment and control of registered dock workers available for work when they are not otherwise employed in accordance with the Scheme;
- (d) the grouping or re-grouping of registered dock workers in accordance with the instructions received from the Board in such groups as may be determined by the Board;
- (e) the allocation of registered dock workers in the Reserve Pool who are available for work to registered employers and for this purpose the Administrative Body shall—
  - (i) be deemed to act as an agent for the employer,
  - (ii) make the fullest possible use of registered dock workers in Reserve Pool,
  - (iii) keep the record of attendance, at call stands or control points, of registered dock workers,
  - (iv) provide for the maintenance of the records of employment and earnings,
  - (v) subject to the allotment of work by rotation under clause 29 (3), allocate workers in accordance with clauses 19 and 30 and
  - (vi) make necessary entries in the Attendance and Wage Cards of workers in the Reserve Pool as laid down in clause 27.
- (f) (i) the collection of levy, contribution to the Dock Workers Welfare Fund or any other contribution from the employers as may be prescribed under the Scheme;
- (ii) the collection of workers' contribution to the Provident Fund, Insurance Fund or any other fund which may be constituted under the Scheme;
- (iii) the payment as agent of the registered employer to each daily worker of all earnings properly due to the worker from the employer and the payment to such workers of all monies payable by the Board to those workers in accordance with the provisions of the Scheme;
- (g) appointing, subject to budget provision, such officers and servants from time to time as may be necessary:

Provided that the creation of posts the maximum salary of which exclusive of allowances is not less than Rs. 250 per month and appointment of persons to such posts shall be subject to clauses 8(1) and 9(1) (j)

- (h) the keeping of proper accounts of the cost of operating the Scheme and of all receipts and expenses under it and making and submitting to the Board an annual report and audited balance-sheet;
- (i) the framing of budget annually and for getting it approved by the Board;
- (j) maintaining complete service records of all registered dock workers; and
- (k) such other functions as may from time to time be assigned to it by the Board or the Chairman.

**12. Labour Officer.**—The Administrative Body consisting of employers of dock workers shall appoint a Labour Officer or Labour Officers with the approval of the Board. The Labour Officer shall under the supervision and control of the Administrative Body, carry out such functions as may be assigned to him by that Body consistent with the provisions of the Scheme.

**13. Functions of the Personnel Officer.**—The Personnel Officer shall assist the Executive Officer generally in the discharge of his duties and shall, in particular, carry out functions vested in him under clause 45.

**14. Officers appointed by the Central Government for proper working of the Scheme.**—(1) Notwithstanding the provisions of the clauses 5, 6, 11 and 13, the Central Government may in its discretion appoint from time to time, in consultation with the Chairman of the Board, one or more officers and entrust to such officer or officers such functions as it may deem fit for the proper working of the Scheme.

(2) Such officer or officers shall be subject to the general supervision and control of the Board and shall hold office for such period and on such terms and conditions as the Central Government may determine.

**15. Maintenance of Registers etc.—(1) Employer's Register.—**(a) There shall be a register of employers.

(b) In so far as the application of the Scheme to Stevedore labour is concerned, every stevedore who on the date of the enforcement of the Scheme is already registered under the Madras Dock Workers (Regulation of Employment) Scheme, 1952 shall be deemed to have been registered under this Scheme.

(c) Persons other than those who are deemed to have been registered under item (b) shall not be registered as stevedores unless the Board considers it expedient and necessary to do so and in no case shall a person be registered until he has been licensed in that behalf by the Port Authority.

(d) A registration fee of Rs. 500 shall be payable to the Board by every stevedore.

(e) The Board may, subject to such conditions as it may prescribe in this behalf, permit persons registered under item (b) or (c), to form one or more pools and each pool so formed shall be treated as one employer for employment of monthly workers.

**(2) Workers' Registers.—**(a) The workers' registers shall be maintained in forms prescribed by the Board for this purpose.

(b) The registers of stevedore workers shall be as under, namely:—

(i) **Monthly Register.**—Register of monthly workers that is, workers who are engaged by each stevedore or group of stevedores on contract on monthly wages.

(ii) **Reserve Pool Register.**—Register of workers other than those on the monthly register. This register shall include a sub-pool of stevedore mazdoors to fill casual vacancies. The workers included in such a sub-pool shall be known as leave reserve workers.

**16. Classification of workers in Registers.—**(1) The Board shall arrange for the classification of workers by categories in the registers.

(2) Dock workers registered under the Scheme shall be classified into

(a) Foreman (Serang).

(b) Tindal.

(c) Winchman.

(d) Stevedore Mazdoor.

(e) Tally Clerk.

**17. Fixation of number of workers on the Register.**—The Board shall in consultation with the Administrative Body determine, before the commencement of registration in any category, the number of workers required in that category.

**18. Registration of existing and new workers.—**(1) (a) Any dock worker who, on the date of enforcement of the Scheme, is already registered under the Madras Dock Workers (Regulation of Employment) Scheme, 1952, shall be deemed to have been registered under this Scheme.

(b) The qualifications for new registration shall be such age as may be prescribed by the Board having regard to local conditions, but not exceeding 40 years' physical fitness, capacity and/or experience. Indian Nationals only shall be eligible for registration.

(c) Registration of workers in any new category shall be done from among workers who have been or were working in the Port on any such date as the Board may prescribe on this behalf and selection for registration shall be made as far as possible on the basis of seniority, i.e., in the order of the total period for which a dock worker has worked in that category provided that the worker is medically fit and is not more than 60 years of age.

(2) Employees, specified in items (i) and (ii) below shall not be registered under the Scheme but they shall be permitted to work without being registered:

(i) Staff who are in the permanent employment of Shipping Companies on a monthly salary basis when employed for tally work on their ships.



- (11) Clerks who are in permanent employment of stevedores on a monthly salary basis and employed for tally work on the date the scheme comes into force and those who are hereafter offered and accept permanent employment for tally work.

(3) The following principles shall apply in respect of registration of Tally clerks and other categories which may after the date of enforcement of the Scheme be included in Schedule I:—

- (a) Before a worker is registered in any of the above categories, the Board shall under clause 17 make a thorough investigation with a view to arriving at an estimate of the number of workers in that category that are likely to be required out of all the bonafide workers in that category who may then be working in the docks.

- (b) There shall be a provisional registration based on the anticipated requirements and the mere fact that a worker has been working before in the port shall not automatically entitle him to registration.

- (c) After the provisional registration has been completed, the booking in rotation shall start without allowing, at that stage, any financial benefits other than wages which accrue to registered workers under the Scheme.

- (d) A reassessment of the requirements shall be made after six months in the light of the actual employment obtained by workers provisionally registered and the provisional registration shall then be adjusted accordingly. The payment of attendance money under clause 32 only shall commence from that time.

- (e) The working under these conditions shall be examined after a year in rotation shall start without allowing, at that stage, any financial the number of days for which the guaranteed minimum wages under clause 31, should be paid. From then onwards the workers will be entitled to all the benefits under the Scheme.

- (f) The minimum number of days in a month for which wages are guaranteed under clause 31 to categories of workers previously registered shall not automatically be claimed by workers of the categories to be registered after the date of enforcement of the Scheme. Such minimum number of days may vary from category to category as determined under item (e) above.

- (g) The wages of the workers in categories which may be registered after the date of enforcement of the Scheme shall also not be automatically fixed at the rates at which they may have been paid during their casual employment before registration.

- (4) The Board may from time to time permit the registration of workers temporarily for such periods and on such terms and conditions of service as the Board may specify;

Provided that the workers registered temporarily shall be entitled to attendance wages under clause 32 and shall have the same obligations as registered dock workers in the Reserve Pool.

- (5) Any fresh recruitment, whether on a temporary or permanent basis, in any category in which dock workers have already been registered under the Scheme shall be done from amongst workers registered with the local Employment Exchange. If however, the requirement exceeds the number of suitable men available on the register of the Employment Exchange on the day of the requisition, direct recruitment, after absorbing suitable men from the Employment Exchange register, may be made.

- (6) New workers selected for registration will be on probation for a period of 3 months before being placed on a permanent basis on the registers.

- (7) **Irregular registration.**—Notwithstanding any other provision of the Scheme, where the Board is of opinion that a dock worker has secured his registration by furnishing false information in his application or by withholding any information

required therein, or where it appears that a worker has been registered improperly or incorrectly, the Board may direct the removal of his name from the registers:

Provided that before giving any such direction the Board shall give him an opportunity of showing cause why the proposed direction should not be issued.

**19. Promotion and Transfer of Workers.**—(1) A vacancy, other than a casual vacancy, in any category of workers in a reserve pool register shall ordinarily be filled by promotion of a worker from the next lower category.

(2) A vacancy, other than a casual vacancy, in any category of monthly workers may be filled only by promotion from lower categories of monthly workers or, if no person is suitable for promotion from lower categories of monthly workers, by transfer of a worker in the same or a superior category from the reserve pool who may be selected by a registered employer or a group of employers. The criterion for selection being previous work, merit and fitness for work of which the employer or the group of employers selecting the workers will be the sole judge.

*Explanation.*—The criteria for promotion shall ordinarily be:—

- (a) seniority,
- (b) merit and fitness for work in the category to which promotion is to be made, and
- (c) record of past service.

**NOTE.**—A transfer from the Reserve Pool Register to the Monthly Register in the same category or *vice-versa* shall not be deemed a promotion.

(3) The Chairman or the Executive Officer may for sufficient and valid reasons allow the transfer of a monthly worker to the reserve pool on a request in writing of the employer or the worker explaining fully the reasons for the transfer. No transfer shall take place without the prior approval of the Chairman or the Executive Officer.

(4) If the services of a monthly worker are terminated by an employer for an act of indiscipline or misconduct he may apply to the Board for employment in the Reserve Pool. The Executive Officer shall then decide on the merits of the case whether or not the worker should be employed and if so, whether in the same category or a lower category.

(5) If a monthly worker is transferred to or employed in the Reserve Pool under sub-clause (3) or sub-clause (4), as the case may be, his previous service shall be reckoned for all benefits in the Reserve Pool and the employer shall transfer to the Board all benefits that have accrued to the worker in respect of his previous service as if such service had not been transferred. The employer shall in particular contribute to the Board such amount as may be appropriate towards the worker's leave, Provident Fund or gratuity that may be due to him on the date of such transfer.

**20. Medical Examination.**—(1) A new worker before registration shall undergo, free of charge, a medical examination for physical fitness by a Medical Officer nominated by the Chairman for this purpose. A worker found medically unfit by a Medical Officer may apply in writing to the Chairman and simultaneously deposit with him such fees as may be prescribed in this behalf, for examination by a Medical Board. On receipt of such a request, the Chairman shall set up a Medical Board. The decision of the Medical Board shall be final and a worker who is medically unfit shall not be entitled to registration.

(2) If the Administrative Body deems it necessary, a worker shall undergo free of charge a medical examination by a Medical Board to be constituted by the Chairman. The Chairman will have authority to terminate the services of a worker found unfit by the Medical Board. The decision of the Medical Board will be final.

**21. Facilities for Training.**—The Board shall make provision for training of suitable registered workers in the duties of Winchmen and Signallers, or in any other duties that it may deem necessary.

**22. Registration Fee.**—A registration fee of rupees two shall be payable to the Board by each worker at the time of registration.

**23. Supply of cards.**—(1) Every registered worker shall be supplied, free of cost with the following cards in the forms prescribed by the Board, namely:

- (i) Identity card.
- (ii) Attendance and Wage card.

(2) In case of loss of a card, a fresh card will be issued but the cost thereof which will be fixed by the Board, shall be payable by the worker concerned.

**24. "Service Records" for registered workers.**—A "Service Record" for every monthly and daily worker shall be maintained by the Administrative Body in a form to be prescribed by the Board which shall contain, among other things, a complete record of disciplinary actions taken against the worker, promotions, commendations for good work etc. Such details in respect of monthly workers shall be supplied to the Administrative Body by the registered employers.

**25. "Record Sheets" for registered employers.**—The Personnel Officers shall maintain a "Record Sheet" in respect of each registered employer in a form to be prescribed by the Board which shall contain, among other things, a complete record of disciplinary actions taken against the registered employer.

**26. Surrender of Cards.**—A worker's card shall be surrendered to the Administrative Body in the following circumstances, namely:—

- (a) when proceeding on leave;
- (b) when retiring from service;
- (c) when dismissed or discharged from service;
- (d) when temporarily suspended; or
- (e) on death.

**27. Entries in Attendance and Wage Card.**—(1) A registered dock worker in the Reserve Pool shall hand over his Attendance and Wage Card to the Administrative Body at the time he is allocated for work to a registered employer. The Administrative Body shall make necessary entries in the Attendance and Wage Card in respect of the period of work done by the worker and return it to him before the expiry of the period of his engagement.

(2) A monthly worker shall hand over his Attendance and Wage Card to his employer at the time when he is allotted work on a ship. The said employer shall make necessary entries in the card in respect of the period of work done by the worker and return it to him before the conclusion of his allotted work.

**28. Employment of workers.**—(1) A monthly worker of a particular category attached to a registered employer or a group of employers shall be entitled to be employed for work in that category by that employer or group of employers in preference to any worker of the same category in the Reserve Pool.

(2) If the number of workers on the monthly register in a particular category is not sufficient for the work available, the workers on the Reserve Pool register in that category shall be employed.

(3) A monthly worker of one employer or a group of employers shall not be employed by another employer or group of employers, except with the previous approval of the Chairman.

**29. Employment in shifts.**—(1) Workers shall be employed in shifts

(2) (a) A worker shall not ordinarily be employed in two consecutive shifts nor shall a worker be employed in two consecutive shifts on each of two successive days. In no case shall a worker be employed in three consecutive shifts.

(b) A worker in the reserve pool shall not be employed for more than 9 shifts in a week or 33 shifts in a month.

(c) Normally, a monthly worker shall not be employed for more than 6 shifts in a week or 27 shifts in a month, but when a worker in the reserve pool who has not reached the maximum limit of employment defined in item (b) above is not available a monthly worker may be employed upto 9 shifts in a week or 33 shifts in a month.

(d) In special circumstances, the Chairman may relax temporarily the restriction under items (b) and (c) to the extent necessary.

(3) Workers of each category on the Reserve Pool Register shall be allotted work by rotation.

(4) Where work is carried on by a gang, the allotment of workers by rotation shall be by gangs.

**30. Filling up of Casual vacancies.**—Casual vacancies in the monthly and Reserve Pool Registers in the categories of Tindal and Stevedore Mazdoor shall be filled up in the following manner:—

When a Tindal is absent the senior most Stevedore Mazdoor in the shift shall work as Tindal. The resultant vacancy shall be filled from the sub-pool of leave reserve workers by rotational booking.

**31. Guaranteed Minimum Wages in a month.**—(1) A worker in the Reserve Pool Register shall be paid wages at least for twelve days in a month at the wage rate, inclusive of dearness allowance, appropriate to the category to which he permanently belongs even though no work is found for him for the minimum number of twelve days in a month. The days on which work is allotted to the worker shall be counted towards the twelve days mentioned above. The guaranteed minimum wages in a month shall be—

(a) for the number of days for which wages are guaranteed in a month subject to the condition that the worker attended for work on all days of the month as directed by the Administrative Body; or

(b) proportionate to the number of days on which the worker attended for work.

(2) Subject to the provisions of sub-clause (1), the minimum number of days in a month for which wages are guaranteed may be fixed by the Board for each year on the basis of the monthly average employment obtained by the workers in the Reserve Pool in the lowest category of stevedore workers during the preceding year until the minimum number of days reaches 21; provided that the number so fixed shall not, in any case, be less than the number in the preceding year.

**NOTE.**—The method of assessing the average employment is detailed in Schedule II.

(3) The minimum number of days for which wages shall be guaranteed under sub-clauses (1) and (2) above shall not automatically apply to workers in new categories that may be registered after the date of enforcement of the scheme. The minimum number of days for which wages shall be guaranteed to these categories shall be determined under clause 18(3)(e). The annual re-fixation of the minimum number of days as under sub-clause (2) shall be done independently in their case also.

**Explanation.**—In sub-clauses (1), (2) and (3) of this clause a 'day' shall mean a 'shift'.

**32. Attendance Wages.**—Subject to the other provisions of the Scheme, a worker on the Reserve Pool Register who is available for work but for whom no work is found shall be paid attendance wages at the rate of rupee one per day for the days on which no work was found for him during a calendar month, provided that no attendance wages shall be payable for any day for which full wages, inclusive of dearness allowance, have been paid under clause 31 or otherwise or for which disappointment money is paid under clause 34.

**33. Employment for a shift.**—No worker in the Reserve Pool Register shall be employed for a period of less than a shift and where the work for which a worker has been engaged is completed during the working period of the shift he shall undertake such other work in or at the same or another vessel or berth as may be required by the same employer for the remainder of the period and if no such other work is made available to him, he shall be paid for the entire shift.

**34. Disappointment Money.**—When a worker in the Reserve Pool present himself for work and for any reason the work which he has attended cannot proceed and no alternative work can be found for him and he is relieved within 2 hours of his attending for work, he shall be entitled to disappointment money equal to half the wage rate, inclusive of dearness allowance, appropriate to the category to which he belongs. A worker detained for more than 2 hours shall be paid full wages inclusive of dearness allowance.

**35. Holidays.**—Each worker shall be entitled to eight holidays with pay in a year which shall include all such days as are declared by the Board as close holidays. Such close holidays shall not exceed six in a year. Any payment made under this clause shall be exclusive of the payments calculated under clause 31.

**36. Sub-Committees.**—The Board may appoint one or more sub-committees to whom it may entrust such of its functions as it may deem necessary to facilitate compliance with the provisions of the Scheme and may abolish or reconstitute them as it may deem necessary. Persons who are not members of the Board may, if necessary, be nominated as co-opted members of a sub-committee, such co-opted members, however, shall not have any right of vote.

**37. Obligations of registered dock workers.**—(1) Every registered dock worker shall be deemed to have accepted the obligations of the Scheme.

(2) A registered dock worker in the reserve Pool who is available for work shall be deemed to be in the employment of the Board.

(3) A registered dock worker in the Reserve Pool who is available for work shall not engage himself for employment under a registered employer unless he is allocated to that employer by the Administrative Body.

(4) A registered dock worker in the Reserve Pool who is available for work shall carry out the directions of the Administrative Body and shall—

(a) report at such call stands or control points at such times as may be specified by the Administrative Body and shall remain at such call stands or control points for such period, not exceeding one hour from the commencement of the shift, as may be so specified; and

(b) accept any employment in connection with dock work, whether in the category in which he has been registered or in any other category for which he is considered suitable by the Administrative Body.

(5) A registered dock worker who is available for work when allocated by the Administrative Body for employment under a registered employer shall carry out his duties in accordance with the directions of such registered employer or his authorised representative or supervisor and the rules of the port or place where he is working.

**38. Obligations of registered employers.**—(1) Every registered employer shall accept the obligations of the Scheme.

(2) Subject to the provisions of clause 28 and the relaxation given in clause 18(2), a registered employer shall not employ a worker other than a dock worker who has been allocated to him by the Administrative Body in accordance with the provisions of clause 11(e).

(3) A registered employer shall, in accordance with arrangements made by the Administrative Body, submit all available information of his current and future labour requirements.

(4) A registered employer shall, unless otherwise directed by the Administrative Body, lodge with the latter a return of gross wages (including overtime and allowances and without deductions of any kind) due from him to each registered dock worker engaged by him and particulars of the tonnage handled by each dock on piece rate in respect of the period covered by the return.

(5) (i) A registered employer shall pay to the Administrative Body in such manner and at such times as the Board may direct the levy payable under clause 52(1) and the gross wages due to daily workers specified in the return made under the preceding paragraph.

(ii) A registered employer shall make payment as contributions to the Dock Workers Welfare Fund in accordance with the rules of the Fund.

(6) A registered employer shall keep such record as the Board may require, and shall produce to the Board or to such persons as may be designated by the Board upon reasonable notice all such records and any other document of any kind relating to registered dock workers and to the work upon which they have been employed and furnish such information relating thereto, as may be set out in any notice or directions issued by or on behalf of the Board.

**39. Restriction on employment.**—(1) No person other than a registered employer shall employ any worker on dock work nor shall a registered employer engage subject to the relaxation given in clause 18(2), for employment or employ a worker on dock work unless that worker is a registered dock worker.

(2) Notwithstanding the foregoing provisions of this clause—

(a) where the Administrative Body is satisfied that—

(i) dock work is emergently required to be done; and

(ii) it is not reasonably practicable to obtain a registered dock worker for that work,

the Administrative Body may, subject to any limitations imposed by the Board, allocate to a registered employer a person who is not a registered dock worker. In selecting such workers the local Employment Exchange organisation shall, as far as possible, be consulted:

Provided that whenever unregistered workers have to be employed, the Administrative Body shall obtain, if possible, the prior approval of the Chairman to the employment of such workers, and where this is not possible shall report to the Chairman within 24 hours the full circumstances under which such workers were employed and the Chairman shall duly inform the Board of such employment at its next meeting;

(b) In the case referred to in item (a) the person so employed as aforesaid by a registered employer shall, for the purposes of clause 38(4), (5) and (6) and clauses 41 and 42, be treated in respect of that dock work as if he were a daily worker.

(3) A registered worker in the Reserve Pool may, provided he fulfils fully his obligations under clause 37 take up occasional employment under employers other than those registered under the Scheme on those days on which he is not allocated for work by the Administrative Body.

**40. Circumstances in which the Scheme ceases to apply.**—(1) The Scheme shall cease to apply to a registered dock worker when his name has been removed from the register or record in accordance with the provisions of the Scheme.

(2) The Scheme shall cease to apply to a registered employer when his name has been removed from the employer's register in accordance with the provisions of the Scheme.

(3) Nothing in this clause shall affect any obligations incurred or right accrued during any time when the person was a registered dock worker or a registered employer.

**41. Wages, allowances and other conditions of service of certain classes of workers.**—It shall be an implied condition of the contract between a registered dock worker (whether in the Reserve Pool or on the monthly register) not being a worker to whom the provisions of clause 42 apply, and a registered employer that—

(a) the rates of wages, allowances and overtime, hours of work, rest interval holidays and pay in respect thereof and other conditions of service shall be such as may be prescribed by the Board for each category of workers; and

(b) the fixation of wage periods, time for payment of wages and deductions from wages shall be in accordance with the provisions of the Payment of Wages Act, 1936.

**42. Wages, allowances and other conditions of service of Winchman, Tindal and Stevedore Mazdoor.**—(1) It shall be an implied condition of the contract between a registered dock worker in the categories of Winchman, Tindal and Stevedore Mazdoor, whether in the Reserve Pool or on the monthly register, and a registered employer that the rates of wages, allowances and overtime, hours of work, rest intervals, holidays and pay in respect thereof and other conditions of service shall be such as may be prescribed by the Board for each category of workers subject to the provisions of sub-clauses (2), (3), (4) and (5).

(2) (i) A worker will be entitled to the normal daily time rate wage only if he produces the standard output;

(ii) When the standard output is not produced the daily wages to which a worker is entitled shall be based on his actual output, but in no case it shall be less than the guaranteed minimum wage which shall be equivalent to 3/5th of his normal time rate wage inclusive of dearness allowance.

*Explanation*—The Board shall appoint a Committee consisting of representatives of registered employers, shipping companies, workers and the Port Authority and

a nominee of the Central Government to determine the norms for output in respect of cargoes of different kinds, and/or Lines and/or Zones. Should the Committee not be able to prescribe agreed norms within a period of two months of having been asked to do so, the Chairman of the Board may determine such norms and submit them to the Central Government for approval. These norms shall be adopted as standard output required of workers. The same procedure shall be followed if and when a revision of the norms is considered necessary by the Board.

(3) (i) The Board may, by regulations, relate the wages earned to the actual output of workers when they do not produce the standard output. The regulations should be submitted to the Central Government for approval before implementation.

(ii) The regulations shall provide that a worker should be entitled to normal time-rate wage for any period or periods for which loading and unloading may be held up for reasons beyond the workers' control, such as inclement weather or non-availability of cargo in case of export, or completion of work before the expiry of the full shift period etc.

(iii) Notwithstanding the provision of sub-clause (2) (ii) a worker or gang of workers who consistently fails to produce the standard output shall be liable to disciplinary action for inefficiency.

(iv) Should the Board fail to devise suitable regulations under item (i), the Central Government may direct the Board that the formula detailed in Schedule III or any other formula approved by the Central Government shall be adopted and the Board shall be bound to carry out the direction so given.

(4) **Incentive Bonus.**—Workers producing more than the standard output shall be entitled to an incentive bonus on such scale as may be prescribed by the Board provided that the output in excess of such limit as may be fixed by the Board shall be ignored for the purpose of calculating the bonus.

(5) A worker on the monthly register shall draw wages on a calculated daily time rate basis for the days for which he is entitled to payment but is not allotted any work.

(6) The Board may, if necessary, enforce the provisions of sub-clauses (1) to (5) of this clause in such stages as may be approved by the Central Government.

(7) The fixation of wage periods, time for payment of wages and deductions from wages shall be in accordance with the provisions of the Payment of Wages Act, 1936.

**43. Pay in respect of unemployment and under-employment.**—(1) Subject to the conditions set out in this and the next following clause, when, in any wage period, a registered dock worker in the Reserve Pool is available for work but is not given employment or full employment, he shall be entitled to receive from the Board such amounts as may be admissible to him under clauses 31, 32 and 34.

(2) The conditions subject to which a registered dock worker is entitled to the said payment (if any) from the Board are that—

(a) he attended as directed at the call stands or control points, and

(b) his attendance was recorded.

**44. Disentitlement to payment.**—(1) A registered dock worker who while in the Reserve Pool fails without adequate cause to comply with the provisions of clause 37(4) (a) or (b), or fails to comply with any lawful order given to him by or on behalf of the Board, may be proceeded with in accordance with Sub-clause (3).

(2) A registered dock worker in the Reserve Pool who, while in employment to which he has been allocated by the Administrative Body, fails without any adequate cause to comply with the provisions of clause 37(5) or fails to comply with any lawful orders given to him by his employer, may have his engagement terminated and may be returned to the Reserve Pool and, whether or not he is so returned, may be reported in writing to the Labour Officer. When a registered dock worker is so returned to the Reserve Pool, the Administrative Body shall endorse his Attendance and Wage card accordingly.

(3) The Labour Officer shall consider any matter arising under sub-clause (1) or (2) and if, after investigating the matter, he notifies the registered dock worker that he is satisfied that the registered dock worker has failed to comply with a lawful order as aforesaid, the registered dock worker shall not be entitled to any

payment, or to such part of any payment under clause 43 as the Labour Officer thinks fit in respect of the wage period in which such failure occurred or continues.

**45. Disciplinary procedure.**—(1) (i) The Personnel Officer on receipt of the information whether on a complaint or otherwise, that a registered employer has failed to carry out the provisions of the Scheme may after investigating the matter, give him a warning in writing, or

(ii) where in his opinion, a higher penalty is merited, he shall report the case to the Executive Officer, who may then cause further investigation to be made as he may deem fit and take any of the following steps as regards that employer that is to say, he may—

- (a) censure him and record the censure in his record sheet; or
- (b) subject to the approval of the Board and after one month's notice in writing given to the registered employer, inform the Administrative Body that the name of the employer shall be removed for such period as determined by the Board, or permanently in case of a grave offence.

(2) A registered dock worker in the Reserve pool, who fails to comply with any of the provisions of the Scheme, or commits any act of indiscipline or misconduct, may be reported in writing to the Labour Officer which may after investigating the matter take any of the following steps as regards that worker, that is to say, he may,

- (a) determine that, for such period as it thinks proper, that worker shall not be entitled to any payment under clause 43, .
- (b) give him a warning in writing, or
- (c) suspend him without pay for a period not exceeding three days.

(3) (a) Where in a case reported to the Labour Officer under sub-clause (2) he is of opinion that the act of indiscipline or misconduct is so serious that the worker should not be allowed to work any longer, the Labour Officer may, pending investigation of the matter, suspend the worker and report immediately to the Executive Officer, who after preliminary investigation of the matter shall pass orders thereon whether the worker, pending final orders, should remain suspended or not;

(b) where a worker has been suspended by an order under item (a), he shall be paid for each day of suspension a subsistence allowance equivalent to the attendance wage provided in clause 32 or one fourth of his daily wage including dearness allowance, whichever is greater for the period of suspension in excess of a month, the Chairman may, in exceptional cases, grant a higher subsistence allowance not exceeding half the total daily wage including dearness allowance;

(c) the subsistence allowance so paid shall not be recoverable or liable to forfeiture in any case whatsoever;

(d) where a worker is found not guilty, he shall be entitled to such payments as the Administrative Body certifies that the worker would have received had he not been suspended provided that the amounts so payable shall be reduced by the amount of subsistence allowance payable or already paid during a particular period.

(4) Where, in the opinion of the Labour Officer, a higher punishment than that provided in sub-clauses (2) and (3) is merited, he shall report the case to the Executive Officer.

(5) On receipt of the written report from the Labour Officer as in sub-clause (4) or from the employers or any other person that a registered dock worker in Reserve Pool has failed to comply with any of the provisions of the Scheme or has committed an act of indiscipline or misconduct, or has consistently failed to produce the standard output or has been inefficient in any other manner, the Executive Officer may make or cause to be made such further investigation as he may deem fit, and thereafter take any of the following steps, as regards the worker concerned, that is to say, he may impose any of the following penalties:

- (a) determine that, for such period as he thinks proper, the worker shall not be entitled to any payment under clause 43;
- (b) give him a warning in writing;
- (c) suspend him without pay for a period not exceeding three months



- (d) terminate his services after giving 14 days' notice or 14 days' wages inclusive of dearness allowance in lieu thereof; or
- (e) dismiss him.

(6) Before any action is taken under this clause the person concerned shall be given an opportunity to show cause why the proposed action should not be taken against him.

(7) The Administrative Body shall be informed simultaneously about the action taken under this clause.

(8) Notwithstanding anything contained in clauses 44 and 45, the powers vested in the authority specified in column (1) of the Table below under the provisions specified in column (2) of the said Table, shall also be exercisable by the authority specified in the corresponding entry in column (3) in such cases as the last named authority may specify in writing in this behalf:

TABLE

Authority empowered to take action.	Power given to him under	Authority empowered to take action in specified cases
1	2	3
1. Labour Officer	Clauses 44 and 45	Administrative Body
2. Personnel Officer	Clause 45	Executive Officer or Chairman
3. Executive Officer	Clause 45	Chairman

**46. Special Disciplinary powers of the Chairman of the Board.**—(1) Notwithstanding anything contained in the Scheme, if the Chairman is satisfied that a 'go-slow' has been resorted to by any gang of registered dock workers or by any such individual worker and is being continued or repeated by the same gang or worker or different gangs or workers on the same or different ships, he may make a declaration in writing to that effect:

(2) When a declaration under sub-clause (1) has been made, it shall be lawful for the Chairman—

- (i) in the case of monthly workers, to take without prejudice to the rights of the registered employers, such disciplinary action including dismissal against such workers, as he may consider appropriate; and
- (ii) in the case of registered dock workers in the Reserve Pool, to take such disciplinary action including dismissal against such workers as he may consider appropriate and also to order forfeiture of their guaranteed minimum wages and attendance wages for the wage period or periods in which the 'go-slow' has been resorted to.

(3) The Chairman may take disciplinary action—

- (i) where the 'go-slow' is resorted to by a gang, against all the members of the gang; and
- (ii) where the 'go-slow' is resorted to by a worker, against the worker concerned.

(4) Before any disciplinary action is taken under this clause against any worker or any gang of workers, such worker or gang shall be given an opportunity to show cause why the proposed action should not be taken against him or it:

Provided that the Chairman may, before giving an opportunity to show cause under this sub-clause, suspend from work any worker or gang of workers immediately after a declaration has been made under sub-clause (1).

(5) A declaration by the Chairman of the Board that a 'go-slow' has been resorted to by a worker or a gang of workers shall be final and shall not be liable to be questioned on any ground or in any manner whatsoever.

**47. Termination of Employment.**—(1) The employment of a registered dock worker in the Reserve Pool shall not be terminated except in accordance with the provisions of the Scheme.

(2) A registered dock worker in the Reserve Pool shall not leave his employment with the Board except by giving fourteen days' notice in writing to the Board or forfeiting fourteen days' wages inclusive of dearness allowance in lieu thereof.

(3) When the employment of a registered dock worker with the Board, has been terminated under sub-clause (1) or (2), above, his name shall forthwith be removed from the register or record by the Administrative Body.

**48. Appeals by workers.**—(1) Save as otherwise provided in this clause, a worker in the reserve pool who is aggrieved by an order passed by an authority specified in column (1) of the table below, under the provisions specified in column (2) of the said table, may prefer an appeal against such order to the authority specified in the corresponding entry in column (3) of the said table.

TABLE

Authority passing order 1	Order made under 2	Appellate Authority 3
Labour Officer	Clause 44 and 45	Executive Officer
Administrative Body	do	do
Executive Officer	Clause 45	Chairman
Chairman	do	Central Government

(2) A worker who is aggrieved by an order—

(i) placing him in a particular group in the register or record; or

(ii) refusing registration under clause 18; or

(iii) requiring him under clause 37(4)(b) to undertake any work which is not of the same category to which he belongs;

may prefer any appeal to the Chairman.

(3) A dock worker who is aggrieved by an order under clause 19(4) may prefer an appeal to the Chairman.

(4) No appeal shall lie where due notice has been given of the removal of the name of a registered worker from the register or record in accordance with the instructions of the Board, if the ground of removal is that the registered dock worker falls within a class or description of dock workers whose names are to be removed from the register or record in order to reduce the size thereof:

Provided that the Appellate Authority may for reasons to be recorded admit worker alleges that he does not belong to the class or description of dock workers referred to in the instructions of the Board.

(5) Every appeal referred in sub-clause (1), (2), (3) or (4) shall be in writing and preferred within 14 days of the date of receipt of the order appealed against and the order passed on such appeal shall be final and conclusive:

Provided that the Appellate Authority may for reasons to be recorded admit an appeal preferred after the expiry of 14 days.

(6) An appellant shall not be entitled to be represented by a legal practitioner before the Appellate Authority but he shall be entitled to be represented by a representative of the registered trade union of which he is a member or by a registered dock worker.

**49. Appeals by employers.**—(1) (a) A registered employer who is aggrieved by an order of the Personnel Officer under clause 45(1)(i) may appeal to the Executive Officer, whose order shall be final and conclusive and there shall be no appeal against it.

(b) If a registered employer is aggrieved by an original order of the Executive Officer under clause 45(1), he may appeal to the Chairman. The order of the Chairman in respect of an appeal against an order under clause 45(1)(ii)(a) shall be final and conclusive and there shall be no appeal against it. In the case of an appeal against an order under clause 45(1)(ii)(b), the Chairman shall forthwith refer the matter to the Central Government. The Central Government shall make such order on the appeal as it thinks fit.

(2) A stevedore who has been refused registration under clause 15(1)(c) may appeal to the Central Government through the Chairman. The order of the Central Government shall be final and conclusive and there shall be no appeal against it.

(3) If a registered employer is aggrieved by any original order of the Chairman against him under clause 45, he may prefer an appeal to the Central Government. The Central Government shall make such order on the appeal as

(4) Every appeal referred to in sub-clause (1), (2) and (3) shall be in writing and preferred within 14 days of the receipt of the order appealed against:

Provided that the Appellate Authority may for reasons to be recorded admit an appeal preferred after the expiry of 14 days.

**50. Stay of order in case of certain appeals.**—Where an appeal is lodged in accordance with the provisions of clause 48 against an order of termination of service on 14 days' notice, the appellate authority may suspend the operation of the order appealed from pending the hearing and disposal of the appeal.

**51. Special provisions for action in an emergency.**—(1) If at any time the Chairman is satisfied that an emergency has arisen which will seriously affect the working of the port, he may, by order in writing and for such period as he may from time to time specify therein, make a declaration to that effect:

Provided that no such declaration shall be made except with the previous approval of the Central Government.

(2) So long as an order under sub-clause (1) is in force, the following provisions shall apply, namely:—

- (i) If any allegation is made that a registered employer has failed to carry out the provisions of the Scheme, the Chairman may, after holding a summary inquiry into the allegation, take any of the following steps as regards that employer, that is to say, he may
  - (a) give the registered employer a warning in writing, or
  - (b) direct that the name of the registered employer shall be removed forthwith from the employers' register either permanently or for such period as he may determine.

- (ii) If any allegation of indiscipline, "go-slow" or misconduct is made against a registered dock worker, the Chairman may suspend him forthwith pending inquiry, hold a summary inquiry into the allegation and take any one or more of the following steps against that worker, that is to say, he may—

- (a) determine that for such period as he thinks proper that worker shall not be entitled to any payment under clause 43,
- (b) give him a warning in writing,
- (c) suspend him without pay for a period not exceeding three months,
- (d) determine his services after giving 14 days' notice or 14 days' wages inclusive of dearness allowance in lieu thereof; or
- (e) dismiss him.

(3) The provisions of the Scheme relating to disciplinary action against registered employers and registered dock workers shall not apply to any order passed by the Chairman under sub-clause (2).

(4) No appeal shall lie from any order passed by the Chairman under sub-clause (2).

(5) Notwithstanding anything contained in the Scheme, so long as an order under sub-clause (1) is in force, the Chairman may authorise the employment of unregistered worker directly by registered employers and payment to such unregistered workers directly.

**52. Cost of operating the Scheme.**—(1) The cost of operating the Scheme shall be defrayed by payments made by registered employer to the Board in the following manner:—

Every registered employer shall pay to the Board—

- (a) such amount, whether by way of percentage on the gross wages payable by him under clause 38(3) or as otherwise agreed, together with and at the same time as the payment of those wages; and
- (b) at the same time as the payment under sub-paragraph (a), such amount whether by way of percentage on the gross wages shown as due to monthly workers in the return made under clause 38(4) or as otherwise agreed;

as the Board may in either case from time to time notify by a written notice to registered employers,

(2) In determining what payments are to be made by registered employers under sub-clause (1), the Board may fix different percentage for different categories of work or workers, provided that the percentages shall be so fixed that the like percentages will apply to all dock employers who are in like circumstances.

(3) The Board shall not sanction any levy exceeding fifty per cent. of gross wages without the prior approval of the Central Government.

(4) A registered employer shall on demand make a payment to the Board by way of deposit, or provide such other security for the due payment of the gross wages set out in clause 38(5) and the percentage payments set out in sub-clause (1), as the Board may consider necessary.

(5) The Administrative Body shall furnish from time to time to the Board such statistics and other information as may reasonably be required relating to the operation and finance of the Scheme.

(6) If a registered employer fails to make the payment due from him under sub-clause (1) within the time prescribed by the Administrative Body, the Administrative Body shall give notice of suspension of the supply of registered dock workers if the employer fails to pay his dues within three days from the date of receipt of the notice. If payment of the dues is not made within this period, the Administrative Body shall suspend supply of registered workers to the said registered employer until such payment is made.

**53. Provident Fund and Gratuity.**—(1) The Board in respect of the workers in the Reserve Pool and the registered employers, in respect of their monthly workers, shall frame and operate rules providing for contributory provident fund. The rules shall provide for the rate of contribution from the workers and the employers, the manner and method of payment and such other matters as may be considered necessary:

Provided that the rules applicable to monthly workers shall not be less favourable than those relating to workers in the Reserve Pool.

(2) The Board shall frame rules for payment of gratuity to registered workers.

**54. Dock Workers Welfare Fund.**—Cost of amenities, welfare and health measures and recreation facilities for registered workers shall be met from a separate fund called Dock Workers Welfare Fund which shall be maintained by the Board. Contributions to this Fund shall be made by all registered employers at such rate as may be determined by the Board. The Board shall frame rules for contributions to, maintenance and operation of the Fund.

**55. Penalties.**—A contravention of clause 39 shall be punishable with imprisonment for a period not exceeding three months in respect of a first contravention or six months in respect of any subsequent contravention or with fine not exceeding five hundred rupees in respect of a first contravention or one thousand rupees in respect of any subsequent contravention, or with both imprisonment and fine as aforesaid.

**56. Repeal and Savings.**—The Madras Dock Workers (Regulation of Employment) Scheme, 1952, is hereby repealed:

Provided that any order made, right accrued, penalty incurred or any thing done or any action taken under the said Scheme shall so far as it is not inconsistent with the provisions of this Scheme be deemed to have been made, accrued, incurred or done or taken under this Scheme and any reference in any instrument to any provision of the said Scheme shall be deemed to be a reference to the corresponding provision of this Scheme.

#### SCHEDULE I

[See Clause 2(2)]

*Classes or description of dock work and dock workers to which the Scheme applies.*

(1) Stevedoring work other than coal and salt work.

(2) The following categories of stevedore workers:—

(a) Foreman (Serang).

(b) Tindal.

(c) Winchman.

(d) Stevedore Mazdoor.

(e) Tally clerk.

, CHOLLOL II

(See clause 31)

The minimum number of days in a month for which wages are guaranteed should be assessed annually on the basis of the average employment during the immediately preceding 12 months, according to the following procedure:—

- (a) Suppose an assessment is being made in the month of October, 1955, the average of the total number of registered dock workers in the Reserve Pool in the lowest category (namely, Stevedore Mazdoor) during the 12 months ending 30th September, 1955, should be ascertained. This will include workers on leave or absent but whose names are still borne on the Reserve Pool Register.
- (b) The total wages earned including leave allowance, but excluding payment made on account of minimum guarantee, attendance and incentive bonus, overtime or any other allowance paid to the workers in the 12 months ending 30th September, 1955, should be calculated.
- (c) The total wages under (b) should be divided by the total number of such workers on the register as under (a) to arrive at the annual average wages earned by a registered dock worker in the Reserve Pool in this category.
- (d) The figure arrived at under (c) divided by 12 will give the average monthly earning of a worker in the Reserve Pool in this category.
- (e) The average monthly wages as in (d) divided by the daily wage of a worker in this category will give the average number of days in a month worked by a registered dock worker in the Reserve Pool in this category.

The number arrived at in (e) above may be fixed as the minimum number of days for which wages may be guaranteed for the next 12 months ending 30th September, 1956. For clarification an example is given below:—

At Madras a stevedore worker or mazdoor is the lowest category of worker.

Rs

The daily wage of a mazdoor . . . . .	3/6/-
	<u>=27</u>
	8

Suppose:

The average total number of Mazdoors between 1st October, 1954 to 30th September, 1955 . . . . .	1,000
--	-------

The total wages earned including leave allowances but excluding minimum guaranteed wage, attendance wage, incentive bonus, overtime, or any other allowance, during the 12 months ending 30th September 1955 . . . . .	7,29,000
--	----------

Total average wage earned by each Mazdoor during the 12 months ending 30th September, 1955 . . . . .	<u>7,29,000</u>
	1,000

Average wages per Mazdoor per month . . . . .	<u>7,29,000</u>
---	-----------------

The daily wage of a Mazdoor as shown above . . . . .	$\frac{1000 \times 12}{27}$
	8

The number of shifts worked per Mazdoor in a month during this period . . . . .	$\frac{7,29,000}{1000 \times 12} \times 8 = 18$
	<u>27</u>

The minimum number of days in a month for the next twelve months for which wages will be guaranteed will then be 18.

Although this average has been calculated for the lowest category of workers only, it will apply to all the categories of stevedore labour, namely, Tindal, Winchman etc. If a new category is registered, the minimum guarantee for this

category to start with will be determined as has been provided in the principles relating to the registration of new categories mentioned in clause 18(3) of the Scheme.

Similar calculation should be made in October, 1956, and thereafter every year. If the average number of days in any year works out to be less than the minimum number of days for which wages have already been guaranteed, the latter number will not be reduced. In other words, the minimum number of days in a month for which wages are guaranteed will progressively increase but will never be decreased.

### SCHEDULE III (See clause 42)

*The formula and the method to determine the wages of a worker when the production is less than the standard output.*

Suppose :—

- (1) The number of workers in a gang including winchmen, entitled to wages under piece rate is . . . . . n
  - (2) The daily wages including dearness allowance of the lowest paid worker in the gang . . . . . w
  - (3) The difference in the daily inclusive wages of other workers in the gang and the lowest paid worker may be expressed as . . . d<sub>1</sub>, d<sub>2</sub>, d<sub>3</sub> etc.
  - (4) The standard output per shift . . . . . S Tons
  - (5) Actual output in the particular shift . . . . . P Tons
  - (6) The basic piece rate per ton for the gang will be . . . . .  $w \times n$
  - (7) The basic piece rate per worker per ton will be . . . . .  $\frac{S}{w \times n}$  or  $\frac{wx}{S}$
  - (8) Daily wages payable to the lowest paid worker on the basis of actual production will be . . . . .  $\frac{w}{S} \times P = \frac{wp@}{S}$
- \* To be rounded off to the nearest pie. say R
- @To be rounded off to the nearest anna
- (9) The wages payable to the lowest paid worker calculated as in (8) will be subject to a guaranteed minimum wage equal to 3/5th of the daily time rate wage . . . . .
  - (10) Wages payable to other workers in the gang will be . . . . . R+d<sub>1</sub>, R+d<sub>2</sub> and so on

To clarify the operation of this formula, two example are given below:—

#### Example 1

Suppose the standard output for a particular type of cargo is 45 tons and a gang consisting of 1 Tindal, 2 Winchmen and 9 Mazdoors handles 40 tons in a particular shift. The time rate wages inclusive of Dearness Allowance and their difference with the wages of the lowest paid worker are as given below:—

Category	Time rate daily wage	Difference with Mazdoor
(1)	(2) Rs.	(3)
Tindal . . . . .	3/10/-	+
Stevedore worker or Mazdoor . . . . .	3/6/-	-
Winchman . . . . .	3/10/-	+
n=12		
w=Rs. 3/6/-		
d <sub>1</sub> , d <sub>2</sub> , etc. will be as in Column 2 above.		
S=45 Tons		
P=40 Tons		

$$\begin{aligned} \text{The basic piece rate per ton for the gang} &= \frac{w \times n}{S} \\ &= \frac{\text{Rs. } 3/6/- \times 12}{45} = \frac{648}{45} \text{ As.} \end{aligned}$$

$$\begin{aligned} \text{The basic piece rate per ton for a worker in the} &= \frac{w \times n}{S \times n} = \frac{W}{S} \\ \text{lowest category viz. Mazdoor} &= \frac{\text{Rs. } 3/6/-}{45} = \frac{648}{45} \text{ pies} \\ &= 14.4 \text{ pies} \end{aligned}$$

$$\text{Rounded off to the nearest pie} = 14 \text{ pies.}$$

$$\begin{aligned} \text{Daily wage payable to a Mazdoor will be} &= \frac{W \times P}{S} = \frac{14 \times 40 \text{ pies}}{560 \text{ pies}} \\ &= \text{Rs. } 2/14/8 \end{aligned}$$

$$\text{Rounded off to the nearest anna} = \text{Rs. } 2/15/-$$

$$\text{Wage of a Tindal will be} = \text{Rs. } 2/15/- + \text{Rs. } -/4/-$$

$$= \text{Rs. } 3/3/-$$

$$\begin{aligned} \text{Wage of a winchman will be} &= \text{Rs. } 2/15/- + -/4/- \\ &= \text{Rs. } 3/3/- \end{aligned}$$

### Example 2

Suppose the same gang handles only 25 tons of the same cargo during a particular shift. The basic rate per worker per ton will be the same as in previous Example viz. 14 pies per ton.

$$\begin{aligned} \text{Wages payable to the lowest paid worker i.e., Mazdoor,} & \\ \text{on the basis of actual production of 25 tons} & \\ \text{will be} &= \frac{25 \times 14 \text{ pies.}}{350 \text{ pies}} = \text{Rs. } 1-13-2 \end{aligned}$$

$$\text{Rounded off to the nearest anna} = 1/13/-$$

$$\begin{aligned} \text{The guaranteed minimum wage i.e. } 3/5\text{th of the} & \\ \text{Mazdoor's daily wage} &= \frac{3}{5}\text{th of Rs. } 3/6/- \\ &= \text{Rs. } 2-0-5 \end{aligned}$$

$$\text{Rounded off to the nearest anna} = \text{Rs. } 2/-$$

Since the wages actually earned are less than the guaranteed minimum wages, the wages payable to the Mazdoors will be the guaranteed minimum wage i.e. Rs. 2/- and wages payable to other will be Rs. 2/- plus the differentials.

$$\text{A Tindal will get} \quad \text{Rs. } 2/- + -/4/- \quad \text{Rs. } 2/4/-$$

$$\text{A winchman will get} \quad \text{Rs. } 2/- + -/4/- \quad = \text{Rs. } 2/4/-$$

---

It follows that for shifts when a gang does  $\frac{3}{5}$ th or less than  $\frac{3}{5}$ th of the standard output, different workers will be entitled to wages which will be equal to the guaranteed minimum wage for the Mazdoor plus their respective differentials.

[No. DC-142.]

VISHNU SAHAY, Secy.